1 2 3 4 5 6 7	Attorney General of California  ALFREDO TERRAZAS Senior Assistant Attorney General  ARTHUR D. TAGGART Supervising Deputy Attorney General  State Bar No. 083047 1300 I Street, Suite 125 P.O. Box 944255 Sacramento, CA 94244-2550 Telephone: (916) 324-5339 Facsimile: (916) 327-8643		
8	BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF CALIFORNIA		
11	In the Matter of the Accusation Against: Case No. 2010	· 335	
12	12 KRISTIN PALMER,		
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14			
15	Registered Nurse License No. 541229		
16	Respondent.		
17	Complainant alleges:		
18	<u>PARTIES</u>		
19	19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Acc	1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her	
20	official capacity as the Interim Executive Officer of the Board of Register	official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),	
21	Department of Consumer Affairs.		
22	2. On or about March 4, 1998, the Board issued Registered Nurse License Number		
23	541229 to Kristin Lanell Palmer, also known as Kristen Palmer ("Respondent"). Respondent's		
24	registered nurse license was in full force and effect at all times relevant to the charges brought		
-25	herein and will expire on May 31, 2011, unless renewed.		
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#### STATUTORY PROVISIONS

- 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
- 5. Code section 2761, subdivision (a)(4), states that the Board may take disciplinary action against a certified or licensed nurse for unprofessional conduct, which includes, but is not limited to, denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.
  - 6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.
- (b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license. . .

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7. Code section 4060 states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

Health and Safety Code section 11173, subdivision (a), states, in pertinent part:

No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge . . .

#### **COST RECOVERY**

Code section 125.3 provides, in pertinent part, that the Board may request the 9. administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

# CONTROLLED SUBSTANCE AT ISSUE

Fentanyl is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (c)(8).

#### FIRST CAUSE FOR DISCIPLINE

# (Disciplinary Action by the Arizona State Board of Nursing)

Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a)(4), on the grounds of unprofessional conduct. On or about February 19, 2009, pursuant to Consent for Entry of Voluntary Surrender Order No. 0803049 ("Consent Order") entered into between Respondent and the Arizona State Board of Nursing ("Arizona Board"), in the disciplinary proceeding titled In the Matter of Professional Nurse License No. RN098405

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Issued to: Kristen Palmer, Respondent surrendered her license for a minimum of three years. A true and correct copy of the Consent Order is attached as exhibit "A" and incorporated herein by reference. Pursuant to the Consent Order, Respondent admitted as follows:

- a.. From on or about January 24, 2006, until March 9, 2008, Respondent was employed at Scottsdale Healthcare Shea in Scottsdale, Arizona.
- b. On or about September 6, 2007, Respondent was counseled after staff found Fentanyl and Versed in the treatment room unattended. Respondent was in charge at the time and was asked if she knew who the medications belonged to and she said yes and took the medications. Supervisory staff failed to verify if the medication had been properly wasted.
- c. On or about September 7, 2007, Respondent was counseled because she had not documented Versed 1 mg. Respondent said she may have forgotten to chart the Versed 1 mg.
- d. On or about October 1, 2007, one of the staff noted that the narcotic count for Fentanyl was missing one dose. Respondent removed an unopened ampule of Fentanyl from her pocket and corrected the count. Respondent was counseled never to remove narcotics from the department. According to Respondent, her job duties required her to service areas within her department and it was not uncommon for staff to later return unused narcotics.
- e. On or about February 15, 2008, Respondent was counseled because she was using an IPod while assigned to patient care. Respondent was informed this was inappropriate and was later seen doing the same thing. Respondent was placed on a performance plan and informed that any future actions could result in her termination. Respondent signed the counseling.
- f. On or about March 7, 2008, Respondent appeared "hyper and giddy" while on duty. Respondent had removed three Fentanyl but only accounted for two Fentanyl when she went to lunch. Upon her return, she was asked about the third vial of Fentanyl and she became pale. Respondent said she had dropped one of the vials of Fentanyl and had to remove a third vial. Respondent was asked to undergo a urine drug screen (UDS) for cause. Respondent refused and submitted her resignation.

- g. On or about April 3, 2008, Respondent told Board staff she had used Fentanyl 50 mcg. during October and November of 2007. Respondent admitted she had used Fentanyl on or about March 7, 2008. Respondent acknowledged she had a substance abuse problem.
- h. On or about August 20, 2008, Respondent enrolled in Banner Behavioral Health Outpatient Treatment Program.
- i. On or about August 23, 2008, Respondent was assigned to work at St. Joseph's Hospital in Phoenix, Arizona. Respondent admitted she removed Fentanyl for her personal use. Respondent tested positive on a UDS on or about August 25, 2008.
- j. On or about October 15, 2008, Respondent completed the Outpatient Treatment Program at Banner Behavioral Health in Scottsdale, Arizona.
- k. On or about January 28, 2009, Respondent requested to voluntarily surrender her license.
- 1. The conduct and circumstances described in subsections (a) through (k), above, constitute violations of A.R.S. § 32-1601(16)(d) and (j) and A.A.C. R4-19-403(B)(9)(16)(17) and (31).

#### SECOND CAUSE FOR DISCIPLINE

#### (Self-Administration of a Controlled Substance)

12. Respondent's registered nurse license is subject to disciplinary action pursuant to Code Section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (a), in that on or about and between October and November 2007, while licensed as a registered nurse, Respondent self-administered the controlled substance Fentanyl without lawful authority therefor, as further set forth in subparagraph 11(g), above.

#### THIRD CAUSE FOR DISCIPLINE

# (Use of a Controlled Substance to an Extent or in a Manner Dangerous or Injurious to Oneself or Others)

13. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (b), as follows: On or about March 7, 2008, while on duty as a registered nurse with

Scottsdale Healthcare Shea in Scottsdale, Arizona, Respondent used the controlled substance Fentanyl to an extent or in a manner dangerous or injurious to herself and/or others, as further set forth in paragraphs 8(f) and (g), above.

#### FOURTH CAUSE FOR DISCIPLINE

### (Diversion, Possession, and Self-Administration of a Controlled Substance)

14. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (a), in that while assigned to work at St. Joseph's Hospital in Phoenix, Arizona, she did the following:

#### **Diversion of a Controlled Substance:**

a. On or about August 23, 2008, Respondent obtained the controlled substance Fentanyl by fraud, deceit, misrepresentation, or subterfuge, in violation of Health & Safety Code section 11173, subdivision (a), as further set forth in subparagraph 11(i), above.

#### Possession of a Controlled Substance:

b. On or about August 23, 2008, Respondent possessed an unknown amount of Fentanyl without a valid prescription from a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor, in violation of Code section 4060, as further set forth in subparagraph 11(i), above.

#### **Self-Administration of a Controlled Substance:**

c. On or about August 25, 2008, Respondent self-administered the controlled substance Fentanyl without lawful authority therefor, as further set forth in subparagraph 11(i), above.

#### **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 541229, issued to Kristin Lanell Palmer, also known as Kristen Palmer;

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Janice K. Brewer

Joey Ridenour
Executive Director

# Arizona State Board of Nursing

4747 North 7th Street, Suite 200
Phoenix AZ 85014-3655
Phone (602) 889-5150 Fax (602) 889-5155
E-Mail: arizona@azbn.gov
Home Page: http://www.azbn.gov

TO:

Regional Inspector General for Investigations

Los Angeles Field Office 600 W. Santa Ana Blvd., Ste. 1100 Santa Ana, CA 92712

California Board of Registered Nursing 1625 North Market Boulevard, Suite N-217 Sacramento, CA 95834-1924

DATE:

February 19, 2009

FROM:

Joey Ridenour, R.N., M.N., F.A.A.N., Executive Director

Arizona State Board of Nursing

SUBJECT: KRISTEN PALMER

Disciplinary Action by Arizona State Board of Nursing

This is to advise you that the above named registerd nurse was disciplined by the Arizona State Board of Nursing effective February 19, 2009. The disciplinary action given was Voluntary Surrender.

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Enclosure: Consent Agreement/Board Order (certified copy)

Janice K. Brewer



Joey Ridenour
Executive Director

# Arizona State Board of Nursing

4747 North 7<sup>th</sup> Street, Suite 200
Phoenix AZ 85014-3655
Phone (602) 889-5150 Fax (602) 889-5155
E-Mail: arizona@azbn.gov
Home Page: http://www.azbn.gov

# AFFIDAVIT OF CUSTODIAN OF RECORDS

STATE OF ARIZONA

COUNTY OF MARICOPA

I, Joey Ridenour, Executive Director for the Arizona State Board of Nursing, County of Maricopa, State of Arizona, do hereby certify that I am the officer having the legal custody for the records hereto attached in the office of the Arizona State Board of Nursing, County of Maricopa, State of Arizona, a public office of said State. The attached copies are true copies of the records on KRISTEN PALMER. Personnel of the Arizona State Board of Nursing prepared the records during the ordinary course of business.

Witness my hand and the seal of the Arizona State Board of Nursing at 4747 N. 7th Street, Suite 200, Phoenix, Arizona 85014-3655 on February 19, 2009.

**SEAL** 

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Your Ridenow Rom An Haan

Joey Ridenour, R.N., M.N., F.A.A.N. Executive Director

## / 'zona State Board of Nursing

Date Printed: 02/19/2009

Type of Nursing Position:

Major Clinical or Teaching Area in Nursing:

By: TRINA SMITH, INVESTIGATIONS

KRISTEN PALMER NAME ETHNICITY: White - Not of GENDER: F Hispanic Origin STATE: AZ PLACE OF BIRTH CITY: MESA MAILING ADDRESS 1801 MORGAN LANE REDONDO BEACH CA 90278 County: Country: CELL PHONE: N/A PAGER: N/A HOME PHONE: N/A N/A N/A FAX: BUSINESS PHONE: COFFEEGIRL321@AOL.COM E-MAIL: OTHER NAMES REASON NAMES USED REASON NAMES USED <NONE> AZ LICENSE/CERTIFICATION INFORMATION: License Type: REGISTERED NURSE License/Certificate Number: RN098405 06/19/1997 Original Date: Expiration/Next Renewal Date: 02/19/2009 04/12/2007 Last Issued Date: Original State of Licensure/Certification: TEXAS AZ LICENSE STATUS HISTORY LAST MODIFIED BY: **FROM** TO **STATUS** 05/01/1999 Convert 06/19/1997 Active: Good Standing DEBRA KUNKLE 05/01/1999 04/12/2007 Lapsed/Expired TRINA SMITH 02/19/2009 04/12/2007 Active: Good Standing 05/12/2008 04/12/2007 TRINA SMITH Multi State Privileges SISTER RACHEL TORREZ 03/14/2008 11/20/2008 Complaint/Self Report SISTER RACHEL TORREZ 02/19/2009 05/12/2008 Multi State Privileges 05/12/2008 05/12/2008 TRINA SMITH Valid in Arizona Only SISTER RACHEL TORREZ 11/20/2008 02/19/2009 Under Investigation SISTER RACHEL TORREZ 02/19/2009 Voluntary Surrender SCHOOL INFORMATION **GRADUATION DATE** NCLEX CODE DEGREE OBTAINED LOCATION NAME 05/11/1995 SAN ANTONIO TX SAN ANTONIO COLL OF NSG OTHER STATES OF LICENSURE/CERTIFICATION LIC/CERT DATE ORIG STATE **STATUS** STATE LIC/CERT TYPE LIC/CERT NO Υ REGISTERED NURSE TX Υ REGISTERED NURSE TX N Active: Good Standing REGISTERED NURSE CA 06/11/1995 Ν Active: Good Standing REGISTERED NURSE N NO FU REGISTERED NURSE Inactive MOST RECENT APPLICATION INFORMATION 如白翅的 ´2007 Year: **Employment Status:** 

Staff/General Duty Nurse/Team Leader/Charge Nurse

Other

Page 1

#### ARIZONA STATE BOARD OF NURSING 4747 North 7th Street, Suite 200 Phoenix, Arizona 85014-3655 602-889-5150

IN THE MATTER OF REGISTERED NURSE LICENSE NO. RN098405 ISSUED TO:

KRISTEN PALMER RESPONDENT

CONSENT FOR ENTRY OF VOLUNTARY SURRENDER ORDER NO. 0803049

A complaint charging Kristen Palmer, ("Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements, and the responsibilities of the Board, and pursuant to A.R.S. §2-1663 (D)(5), Respondent voluntarily surrenders her license for a minimum of three years.

Based on the evidence before it, the Board makes the following Findings of Fact, Conclusions of Law:

# FINDINGS OF FACT

- Respondent holds Board issued registered nurse license no. RN098405.
- 2. From on or about January 24, 2006, until March 9, 2008, Respondent was employed at Scottsdale Healthcare Shea in Scottsdale, Arizona.
- 3. On or about September 6, 2007 Respondent was counseled after staff found Fentanyl and Versed in the treatment room unattended. Respondent was in charge at the time and was asked if she knew who the medications belonged to and she said yes and took the medications. Supervisory staff failed to verify if the medication had been properly wasted.
- 4. On or about September 7, 2007 Respondent was counseled because she had not documented Versed 1 mg. Respondent said she may have forgotten to chart the Versed 1 mg.

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- 5. On or about October 1, 2007 one of the staff noted that the narcotic count for Fentanyl was missing one dose. Respondent removed an unopened ampule of Fentanyl from her pocket and corrected the count. Respondent was counseled never to remove narcotics from the department. According to Respondent her job duties required her to service areas within her department and it was not uncommon for staff to later return unused narcotics.
- 6. On or about February 15, 2008 Respondent was counseled because she was using an I Pod while assigned to patient care. Respondent was informed this was inappropriate and was later seen doing the same thing. Respondent was placed on a performance plan and informed that any future actions could result in her termination. Respondent signed the counseling.
- 7. On or about March 7, 2008 Respondent appeared "hyper and giddy" while on duty. Respondent had removed three Fentanyl but only accounted for two Fentanyl when she went to lunch. Upon her return she was asked abut the third vial of Fentanyl and she became pale. Respondent said she had dropped one of the vials of Fentanyl and had to remove a third vial. Respondent was asked to undergo a urine drug screen (UDS) for cause. Respondent refused and submitted her resignation.
- 8. On or about April 3, 2008, Respondent told Board staff she had used Fentanyl 50 mcg. during October and November of 2007. Respondent admitted she had used Fentanyl on or about March 7, 2008. Respondent acknowledged she had a substance abuse problem
- 9. On or about August 20, 2008, Respondent enrolled in Banner Behavioral Health Outpatient Treatment Program.
- 10. On or about August 23, 2008, Respondent was assigned to work at St. Joseph's Hospital in Phoenix, Arizona. Respondent admitted she removed Fentanyl for her personal use. Respondent tested positive on a UDS on or about August 25, 2008.

 11. On or about October 15, 2008 Respondent completed the Outpatient Treatment Program at Banner Behavioral Health in Scottsdale, Arizona.

12. On or about January 28, 2009, Respondent requested to voluntarily surrender her license.

# CONCLUSIONS OF LAW

Pursuant to A.R.S. §§ 32-1606, 32-1663, and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

The conduct and circumstances described in the Findings of Fact constitute a violation of A.R.S. § 32-1601(16) (d) and (j); and A.A.C. R4-19-403 (B) (9) (16) (17) and (31).

The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. §§ 32-1663(D) (5) 32-1664(N) to take disciplinary action against Respondent's license to practice as a registered nurse in the State of Arizona.

Respondent admits the Board's Findings of Fact, Conclusions of Law.

Respondent understands that she has an opportunity to request a hearing and declines to do so.

Respondent agrees to issuance of the attached Order and waives all rights to a hearing, rehearing, appeal, or judicial review relating to this Order.

Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

Respondent understands that the admissions in the Findings of Fact are conclusive evidence of a violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any future disciplinary matters of the Nurse Practice Act and may be used for purposes of determining sanctions in any

Respondent understands the right to consult legal counsel prior to entering into the Consent

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Agreement and such consultation has either been obtained or is waived.

Respondent understands that this voluntary surrender is effective upon its acceptance by the Executive Director or the Board and by Respondent as evidenced by the respective signatures thereto. Respondent's signature obtained via facsimile shall have the same effect as an original signature. Once signed by the Respondent, the agreement cannot be withdrawn without the Executive Director or the Board's approval or by stipulation between the Respondent and the Executive Director or the Board. The effective date of this Order is the date the Voluntary Surrender is signed by the Executive Director or the Board and by Respondent. If the Voluntary Surrender is signed on a different date, the later date is the effective date.

Respondent understands that Voluntary Surrender constitutes disciplinary action. Respondent also understands that she may not reapply for reinstatement during the period of Voluntary Surrender.

Respondent agrees that she may apply for reinstatement after the period of voluntary surrender under the following conditions, and must comply with current law at the time of their application for reinstatement:

The application for reinstatement must be in writing and shall contain therein or have attached thereto substantial evidence that the basis for the voluntary surrender has been removed and that the reinstatement of the license does not constitute a threat to the public's health, safety and welfare. The

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Board may require physical, psychological, or psychiatric evaluations, reports and affidavits regarding the Respondent as it deems necessary. These conditions shall be met before the application for reinstatement is considered.

Respondent

Date: 2-12-07

ARIZONA STATE BOARD OF NURSING

SEAL

Joey Ridenour, R.N., M.N., F.A.A.N. Executive Director

Dated: 2/19/09

TORREZ// RN098405.PALMER

## **ORDER**

Pursuant to A.R.S. § 32-1663 (D)(5) the Board hereby accepts the Voluntary Surrender of registered nurse license number RN098405, issued to Kristen Palmer. This Order of Voluntary Surrender hereby entered shall be filed with the Board and shall be made public upon the effective date of this Consent Agreement. Respondent shall not practice in Arizona under the privilege of a multistate license.

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IT IS FURTHER ORDERED that Respondent may apply for reinstatement of said license after a period of three years. ARIZONA STATE BOARD OF NURSING **SEAL** Joey Ridonour, R.N., M.N., F.A.A.N. Executive Director Dated: 2/19/09 JR/srt:ts Copy mailed this 29th day of January, 2009 by First Class Mail to: Kristen Palmer In Care of Craig Owens PO Box 45253 Phoenix, AZ 85064 By: Trina Smith Legal Secretary 

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